

**The Honorable Robert S. Lasnik**

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**IN RE: ONYX SOFTWARE CORPORATION  
SECURITIES LITIGATION**

No. C01-1346L

[PROPOSED] FINAL JUDGMENT AND  
ORDER OF DISMISSAL WITH  
PREJUDICE



01-CV-01346-CERT

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**No. C01-1346L**  
**1536.10 0922 MZN/DOE**

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1        This matter came before the Court for hearing pursuant to the Order of this Court, dated  
 2 June 10, 2004, on the application of the parties for approval of the settlement set forth in the  
 3 Stipulation of Settlement dated as of February 19, 2004 (the "Stipulation"). Due and adequate  
 4 Notice having been given to the Class as required in said Order, and the Court having considered  
 5 all papers filed and proceedings had herein and otherwise being fully informed in the premises  
 6 and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED AND  
 7 DECREED that:

8        1.      This Judgment incorporates by reference the definitions in the Stipulation, and all  
 9 terms used herein shall have the same meanings as set forth in the Stipulation.

10       2.      This Court has jurisdiction over the subject matter of the Litigation and over all  
 11 parties to the Litigation, including all Members of the Class.

12       3.      "Class" and "Class Members" mean for the purposes of settlement, all Persons  
 13 and entities (other than those Persons who timely and validly requested exclusion from the Class)  
 14 who purchased shares of Onyx Software Corporation ("Onyx" or the "Company") common stock  
 15 pursuant to Onyx's Secondary Offering in February 2001 (the "Secondary Offering"), which was  
 16 completed pursuant to the Shelf Registration Statement dated November 21, 2000, the  
 17 Prospectus dated January 22, 2001, and a Prospectus dated February 6, 2001 (the "Offering  
 18 Documents") and who were damaged thereby. Excluded from the Class are Defendants,  
 19 members of the immediate families of the Individual Defendants, any entity in which any  
 20 Defendant has or had a controlling interest, present or former directors and officers of Onyx, the  
 21 legal representatives, heirs, successors or assigns of any such Defendant.

22       4.      With respect to the Class, this Court finds and concludes that: (a) the Members of  
 23 the Class are so numerous that joinder of all Class Members in the class action is impracticable;  
 24 (b) there are questions of law and fact common to the Class which predominate over any  
 25 individual question; (c) the claims of the Lead Plaintiff are typical of the claims of the Class;  
 26 (d) the Lead Plaintiff and Lead Counsel have fairly and adequately represented and protected the

1 interests of the Class Members; and (e) a class action is superior to other available methods for  
2 the fair and efficient adjudication of the controversy, considering: (i) the interests of the  
3 Members of the Class in individually controlling the prosecution of the separate actions; (ii) the  
4 extent and nature of any litigation concerning the controversy already commenced by Members  
5 of the Class; (iii) the desirability or undesirability of concentrating the litigation of these claims  
6 in this particular forum; and (iv) the difficulties likely to be encountered in the management of  
7 the Litigation. Based on the foregoing findings, this Court finds that the requirements of Rule  
8 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied.

9       5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the  
10 settlement set forth in the Stipulation, finds that said Stipulation and settlement are, in all  
11 respects, fair, reasonable and adequate to the Class, and hereby directs the Settling Parties to  
12 perform its terms.

13       6. Except as to any individual claim of those Persons who have validly and timely  
14 requested exclusion from the Class (identified in Exhibit A hereto), the Litigation and all claims  
15 contained therein, as well as all of the Released Claims, are dismissed with prejudice as to the  
16 Lead Plaintiff and the other Members of the Class, as against each and all of the Released  
17 Persons. The Settling Parties are to bear their own costs, except as otherwise provided in the  
18 Stipulation.

19       7. Upon the Effective Date hereof, the Lead Plaintiff shall, and each of the Class  
20 Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally,  
21 and forever released, relinquished and discharged all Released Claims against the Released  
22 Persons, whether or not such Class Member executes and delivers the Proof of Claim and  
23 Release.

24       8. All Class Members are hereby forever barred and enjoined from prosecuting any  
25 of the Released Claims against any of the Released Persons.

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1       9. Upon the Effective Date hereof, each of the Defendants shall be deemed to have,  
2 and by operation of this Judgment shall have, fully, finally, and forever released, relinquished  
3 and discharged each and all of the Class Members and Lead Counsel from all claims (including  
4 Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution,  
5 assertion, settlement or resolution of the Litigation or the Released Claims.

6       10. Each of the releases set forth or referred to in the Stipulation shall be and are  
7 hereby deemed to be in effect as of the Effective Date of the Stipulation.

8       11. The Notice of Pendency and Proposed Settlement of Class Action given to the  
9 Class was the best notice practicable under the circumstances, including the individual notice to  
10 all Members of the Class who could be identified through reasonable effort. Said notice  
11 provided the best notice practicable under the circumstances of those proceedings and of the  
12 matters set forth therein, including the proposed settlement set forth in the Stipulation, to all  
13 Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of  
14 Civil Procedure 23 and the requirements of due process.

15       12. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding  
16 the attorneys' fees application shall in no way disturb or affect this Final Judgment and shall be  
17 considered separate from this Final Judgment.

18       13. Neither the Stipulation nor the settlement contained therein, nor any act  
19 performed or document executed pursuant to or in furtherance of the Stipulation or the  
20 settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the  
21 validity of any Released Claim, or of any wrongdoing or liability of the Defendants or their  
22 respective Related Persons; or (b) is or may be deemed to be or may be used as an admission of,  
23 or evidence of, any fault or omission of any of the Defendants or their respective Related Persons  
24 in any civil, criminal or administrative proceeding in any court, administrative agency or other  
25 tribunal. Defendants and/or their respective Related Persons may file the Stipulation and/or the  
26 Judgment from this action in any other action that may be brought against them in order to

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1 support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release,  
2 good faith settlement, judgment bar or reduction or any theory of claim preclusion or issue  
3 preclusion or similar defense or counterclaim.

4       14. Without affecting the finality of this Judgment in any way, this Court hereby  
5 retains continuing jurisdiction over: (a) implementation of this settlement and any award or  
6 distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the  
7 Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest and  
8 expenses in the Litigation; and (d) all parties hereto for the purpose of construing, enforcing and  
9 administering the Stipulation.

10       15. The Court finds that during the course of the Litigation, the Settling Parties and  
11 their respective counsel at all times complied with the requirements of Federal Rule of Civil  
12 Procedure 11.

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1       16. In the event that the settlement does not become effective in accordance with the  
2 terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement  
3 Fund, or any portion thereof, is returned to the Defendants, then this Judgment shall be rendered  
4 null and void to the extent provided by and in accordance with the Stipulation and shall be  
5 vacated and, in such event, all orders entered and releases delivered in connection herewith shall  
6 be null and void to the extent provided by and in accordance with the Stipulation.

IT IS SO ORDERED.

DATED: June 10, 2004

*Not Classified*

**THE HONORABLE ROBERT S. LASNIK  
UNITED STATES DISTRICT COURT JUDGE**

10 | Submitted by:

s/ Steve W. Berman

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